

**Subpart D—Implementation of the Restructuring Plan After Closing****§ 401.550 Monitoring and compliance agreements.**

(a) *Compliance agreements.* The PAE must ensure long-term compliance by the owner with MAHRA, this part, and the Restructuring Plan. As part of this responsibility, the PAE must require each owner with an approved Restructuring Plan to record and execute a Use Agreement that satisfies the requirements of § 401.408.

(b) *Periodic monitoring and inspection.* At least once a year for the term of the Use Agreement, a PAE must review the status of each project for which it developed an approved Restructuring Plan. Monitoring must include on-site inspections.

(c) *HUD acting instead of PAE.* HUD will perform, or contract with other parties to perform, the PAE's functions under this section if:

(1) The project is subject to a PRA with a PAE that is not qualified to be a section 8 contract administrator; or

(2) There is no PAE because the project is not currently subject to a PRA.

**§ 401.552 Servicing of second mortgage.**

HUD or its designee will be responsible for servicing the second mortgage, including determining the amounts receivable by the owner under § 401.461(b)(3)(ii)(A). HUD may designate the PAE, with the PAE's consent, as servicer for the second mortgage.

[63 FR 48943, Sept. 11, 1998; 63 FR 71374, Dec. 28, 1998]

**§ 401.554 Contract administration.**

HUD will offer to any PAE that is qualified to be the section 8 contract administrator the opportunity to serve as the section 8 contract administrator for a project restructured under the Mark-to-Market Program. Qualifications will be determined under both statutory requirements and requirements issued by the appropriate office within HUD, depending on the type of section 8 assistance that is provided.

**Subpart E—Section 8 Requirements for Restructured Projects****§ 401.595 Contract and regulatory provisions.**

The provisions of chapter VIII of this title will apply only to the extent, if any, provided in the contract. Part 983 of this title will not apply.

**§ 401.600 Will a section 8 contract be extended if it would expire while an owner's request for a Restructuring Plan is pending?**

If a contract for an eligible project would expire before a Restructuring Plan is implemented, the contract may be extended at current rents for up to the earlier of 1 year or closing on the Restructuring Plan under § 401.407, with a provision for earlier termination if the PAE or HUD determines that an owner is not cooperative under § 401.402 or if an owner's request is rejected under § 401.403 or § 401.405. Any extension of the contract beyond 1 year for a pending Plan must be at comparable market rents or exception rents. An extension at comparable market rents or exception rents under this section will not affect a project's eligibility for the Mark-to-Market Program once it has been initially established under this part.

**§ 401.601 Consideration of an owner's request to renew an expiring contract without a Restructuring Plan.**

(a) *Applicability of part 402.* If HUD or the PAE determines that renewal at rents that do not exceed comparable market rents under § 402.4 of this chapter would be sufficient to maintain both adequate debt service coverage on the HUD-insured or HUD-held mortgage and necessary replacement reserves to ensure the long-term physical integrity of the project, the project-based assistance will be renewed under § 402.4 of this chapter (subject to § 402.7 of this chapter) without developing a Restructuring Plan.

(b) *When Restructuring Plan needed.* If HUD or the PAE determines that renewal at market comparable rents under § 402.4 of this chapter would not be sufficient to maintain adequate debt service coverage and reserves, HUD or